

House Amendment 1285

PAG LIN

1 1 Amend Senate File 413, as passed by the Senate, as
1 2 follows:
1 3 #1. Page 4, by inserting after line 22 the
1 4 following:
1 5 <Sec. _____. NEW SECTION. 147.140 NOTICE OF CLAIM
1 6 AND CERTIFICATE OF MERIT REQUIREMENT.
1 7 1. At least thirty days prior to filing a civil
1 8 action for personal injury or wrongful death against a
1 9 licensed health care provider, based upon the alleged
1 10 negligence of the licensed health care provider in the
1 11 practice of that profession, a plaintiff shall serve
1 12 by certified mail, return receipt requested, a notice
1 13 of claim upon the licensed health care provider. The
1 14 notice of claim shall include a statement of the
1 15 theory of liability upon which the cause of action is
1 16 based and include a list of all persons to whom
1 17 notices have been sent, together with a certificate of
1 18 merit, if necessary, as specified in subsection 2.
1 19 2. a. The certificate of merit shall be signed
1 20 under oath by an expert who, in the three years
1 21 preceding the allegedly negligent act, either
1 22 practiced or instructed in the same or substantially
1 23 similar field of medicine as the defendant.
1 24 b. The certificate of merit shall contain
1 25 information relating to all of the following:
1 26 (1) The expert's familiarity with the applicable
1 27 standard of care.
1 28 (2) The expert's qualifications.
1 29 (3) The expert's statement that the appropriate
1 30 standard of care was breached by the health care
1 31 provider named in the complaint.
1 32 (4) The expert's statement of the actions that the
1 33 health care provider should have taken or failed to
1 34 take to have complied with the standard of care.
1 35 (5) A statement of the manner in which the breach
1 36 of the standard of care was the cause of the injury
1 37 alleged in the complaint.
1 38 c. A separate certificate of merit shall be
1 39 completed for each defendant named in the notice of
1 40 claim.
1 41 d. If a plaintiff or plaintiff's counsel asserts
1 42 in good faith that the plaintiff has insufficient time
1 43 to obtain a certificate of merit prior to the
1 44 expiration of the period of limitation in subsection
1 45 1, the plaintiff shall provide notice of intent to
1 46 provide a certificate of merit to the defendant within
1 47 sixty days of the date the defendant receives the
1 48 notice of the claim.
1 49 3. Notwithstanding subsection 2, if a plaintiff
1 50 believes that a certificate of merit is not necessary
2 1 because the plaintiff's cause of action against a
2 2 health care provider is based upon a well-established
2 3 legal theory of liability which does not require
2 4 expert testimony supporting a breach of the applicable
2 5 standard of care, the plaintiff shall file a statement
2 6 setting forth the basis for the alleged liability of
2 7 the health care provider in lieu of the certificate of
2 8 merit.
2 9 4. Except as otherwise provided in this section,
2 10 the applicable statute of limitations in a civil cause
2 11 of action against a health care provider upon whom a
2 12 notice of claim is served pursuant to this section
2 13 shall be tolled from the date the notice of claim is
2 14 mailed.
2 15 5. If the plaintiff fails to provide a notice of
2 16 claim and a certificate of merit, or a statement of
2 17 the legal theory upon which the claim is based, the
2 18 claim shall be dismissed with prejudice.
2 19 6. For purposes of this section, "health care
2 20 provider" means a physician or surgeon, osteopath,
2 21 osteopathic physician or surgeon, dentist, podiatric
2 22 physician, optometrist, pharmacist, chiropractor, or
2 23 nurse licensed in this state, a hospital licensed
2 24 pursuant to chapter 135B, or a health care facility

2 25 licensed pursuant to chapter 135C.>
2 26 [#2.](#) By renumbering as necessary.
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2 30 UPMEYER of Hancock
2 31 SF 413.558 82
2 32 rh/je/7829